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10 Attorneys for Plaintiff
11 UNITED STATES OF AMERICA

12 UNITED STATES DISTRICT COURT
13 FOR THE CENTRAL DISTRICT OF CALIFORNIA

14 UNITED STATES OF AMERICA,	)	No. CR 05-587(D) -JFW
	)	No. CR 05-587(E) -JFW
15 Plaintiff,)	
	)	<u>PLEA AGREEMENT FOR DEFENDANT</u>
16 v.	)	<u>SEYMOUR M. LAZAR</u>
)	
17 SEYMOUR M. LAZAR,)	
)	
18 Defendant.)	
19)	

20 1. This constitutes the plea agreement between SEYMOUR M.
21 LAZAR ("defendant"), on the one hand, and the United States
22 Attorney's Office for the Central District of California, on the
23 other hand (the "USAO") in the above-captioned case. This
24 agreement is limited to the USAO and cannot bind any other
25 federal, state, or local prosecuting, administrative or
26 regulatory authorities.

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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

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PLEA

2. Defendant agrees to plead guilty to counts fifteen and seventeen of the second superseding indictment in this case. Defendant also gives up the right to indictment by a grand jury and agrees to plead guilty to a one-count information in the form attached to this agreement or a substantially similar form. The information charges defendant with false declaration before a court, in violation of Title 18, United States Code, Section 1623(a).

NATURE OF THE OFFENSES

3. In order for defendant to be guilty of count fifteen of the second superseding indictment, which charges a violation of Title 26, United States Code, Section 7206(1), the following must be true:

- (a) defendant made and signed a tax return that defendant knew contained false information as to a material matter;
- (b) the tax return contained a written description that it was being signed subject to the penalties of perjury; and
- (c) in filing the false tax return, defendant acted willfully.

4. In order for defendant to be guilty of count seventeen of the second superseding indictment, which charges a violation of Title 18, United States Code, Section 1503, the following must be true:

- (a) there was a federal grand jury proceeding involving allegations that the Milberg Weiss law firm

1 had paid secret and illegal kickbacks to named
2 plaintiffs in class actions, including to defendant;
3 (b) defendant knew or had notice that the grand
4 jurying proceeding was pending; and
5 (c) defendant corruptly influenced, obstructed, or
6 impeded, or endeavored to influence, obstruct, or
7 impede the due administration of justice in the grand
8 jury proceeding by directing his accountant and tax
9 return preparer to destroy certain documents relating
10 to defendant that defendant knew were or would become
11 relevant to the grand jury proceeding.

12 5. In order for defendant to be guilty of count one of the
13 information, which charges a violation of Title 18, United States
14 Code, Section 1623(a), the following must be true:

- 15 (a) defendant made a declaration under penalty of
16 perjury to a federal court;
17 (b) defendant's declaration was false; and
18 (c) defendant knew that his declaration was false and
19 material to proceedings before the court.

20 Defendant admits that defendant is, in fact, guilty of these
21 offenses, as described in counts fifteen and seventeen of the
22 second superseding indictment and count one of the information.

23 PENALTIES

24 6. The statutory maximum sentence that the Court can
25 impose for a violation of Title 26, United States Code, Section
26 7206(1), is three-years imprisonment; a one-year period of
27 supervised release; a fine of \$100,000; a mandatory special
28 assessment of \$100. The Court may order defendant to pay any

1 additional taxes, interest and penalties that defendant owes to
2 the United States. Also, the Court must order defendant to pay
3 the costs of prosecution, which may be in addition to the
4 statutory maximum fine stated above.

5 7. The statutory maximum sentence that the Court can
6 impose for a violation of Title 18, United States Code, Section
7 1503, is ten-years imprisonment; a three-year period of
8 supervised release; a fine of \$250,000 or twice the gross gain or
9 gross loss resulting from the offense, whichever is greatest; and
10 a mandatory special assessment of \$100.

11 8. The statutory maximum sentence that the Court can
12 impose for a violation of Title 18, United States Code, Section
13 1623(a), is five-years imprisonment; a three-year period of
14 supervised release; a fine of \$250,000 or twice the gross gain or
15 gross loss resulting from the offense, whichever is greatest; and
16 a mandatory special assessment of \$100.

17 9. Therefore, the total maximum sentence for all the
18 offenses to which defendant is pleading guilty is: eighteen-years
19 imprisonment; a three-year period of supervised release; a fine
20 of \$600,000 or twice the gross gain or gross loss resulting from
21 defendant's Title 18, United States Code, Sections 1503 and
22 1623(a) offenses, whichever is greatest; mandatory special
23 assessments of \$300; any additional taxes, interest and penalties
24 that defendant owes the United States; and the costs of
25 prosecution of the tax offense.

26 10. Supervised release is a period of time following
27 imprisonment during which defendant will be subject to various
28 restrictions and requirements. Defendant understands that if

1 defendant violates one or more of the conditions of any
2 supervised release imposed, defendant may be returned to prison
3 for all or part of the term of supervised release, which could
4 result in defendant serving a total term of imprisonment greater
5 than the statutory maximum stated above.

6 11. Defendant also understands that, by pleading guilty,
7 defendant may be giving up valuable government benefits and
8 valuable civic rights, such as the right to vote, the right to
9 possess a firearm, the right to hold office, and the right to
10 serve on a jury.

11 12. Defendant further understands that the conviction in
12 this case may subject defendant to various collateral
13 consequences, including but not limited to, suspension or
14 revocation of a professional license. Defendant understands that
15 unanticipated collateral consequences will not serve as grounds
16 to withdraw defendant's plea of guilty.

17 FACTUAL BASIS

18 13. Defendant and the USAO agree and stipulate to the
19 statement of facts set forth in Exhibit A hereto. This statement
20 of facts includes facts sufficient to support a plea of guilty to
21 the charges described in this agreement, and to establish the
22 Sentencing Guideline factors set forth in paragraphs 17 - 19.

23 WAIVER OF CONSTITUTIONAL AND OTHER RIGHTS

24 14. By pleading guilty, defendant gives up the following
25 rights:

- 26 (a) The right to persist in a plea of not guilty.
27 (b) The right to a speedy and public trial by jury.
28 (c) The right to the assistance of legal counsel at

1 trial, including the right to have the Court appoint counsel for
2 defendant for the purpose of representation at trial. (In this
3 regard, defendant understands that, despite his plea of guilty,
4 he retains the right to be represented by counsel - and, if
5 necessary, to have the Court appoint counsel if defendant cannot
6 afford counsel - at every other stage of the proceedings.)

7 (d) The right to be presumed innocent and to have the
8 burden of proof placed on the government to prove defendant
9 guilty beyond a reasonable doubt.

10 (e) The right to confront and cross-examine witnesses
11 against defendant.

12 (f) The right, if defendant wished, to testify on
13 defendant's own behalf and present evidence in opposition to the
14 charges, including the right to call witnesses and to subpoena
15 those witnesses to testify.

16 (g) The right not to be compelled to testify, and, if
17 defendant chose not to testify or present evidence, to have that
18 choice not be used against defendant.

19 15. By pleading guilty, defendant also gives up any and all
20 rights to pursue any affirmative defenses, Fourth Amendment or
21 Fifth Amendment claims, and other pretrial motions that could be
22 filed on his behalf, including assertion of any statute of
23 limitations defense or objection to venue in the Central District
24 of California.

25 SENTENCING FACTORS

26 16. Defendant understands that the Court is required to
27 consider the United States Sentencing Guidelines ("U.S.S.G." or
28 "Sentencing Guidelines") among other factors in determining

1 defendant's sentence. Defendant understands that the Sentencing
2 Guidelines are only advisory, and that after considering the
3 Sentencing Guidelines, the Court may be free to exercise its
4 discretion to impose any reasonable sentence up to the maximum
5 set by statute for the crime of conviction.

6 17. Defendant and the USAO agree that the Court should
7 consider the November 2001 Guidelines Manual because this version
8 was in effect at the time defendant committed the most recent
9 offense to which he is pleading guilty, i.e., count seventeen of
10 the second superseding indictment which charges defendant with
11 obstruction of justice in or about February 2002. Defendant
12 agrees that consideration of the November 2001 Guidelines Manual
13 does not violate the ex post facto clause, and defendant waives
14 any claim that any other Guidelines Manual version should be
15 considered instead of, or in addition to, the November 2001
16 Guidelines Manual.

17 18. With respect to determining defendant's Sentencing
18 Guidelines offense level based on "tax loss," defendant and the
19 USAO stipulate and agree as follows:

20 (a) Defendant's offense conduct encompasses his
21 subscription to a false 2000 personal income return that failed
22 to report gross income of \$175,000 to defendant arising from
23 payments in that sum made during year 2000 by the law firm of
24 Milberg Weiss & Bershad LLP, then known as Milberg Weiss Bershad
25 Hynes & Lerach ("Milberg Weiss"), at defendant's direction and
26 for defendant's financial benefit.

27 (b) Defendant also subscribed to false 1999 and 2001
28 personal income tax returns that failed to report gross income

totaling \$258,000 to defendant arising from payments made during 1999 and 2001 by Milberg Weiss, at defendant's direction and for defendant's financial benefit. The parties agree that these payments by Milberg Weiss also constitute unreported income of defendant, and that defendant's conduct with respect to these false tax returns is relevant conduct for purposes of determining defendant's sentence, pursuant to U.S.S.G. § 1B1.3.

(c) The parties further agree that, only for the purpose of computing the Offense Level under the Sentencing Guidelines, the total tax loss with respect to unreported income to defendant arising from the payments made by Milberg Weiss, at defendant's direction and for defendant's financial benefit, during the years 1999 through 2001, stipulated to be more than \$80,000 and less than \$200,000.

19. Defendant Seymour M. Lazar and the USAO agree and stipulate to the following applicable sentencing guideline factors (based on the November 2001 Guidelines Manual):

With respect to defendant's violation of 18 U.S.C. § 1623(a):

Base Offense Level:	12	[U.S.S.G. § 2J1.3(a)]
Specific Offense Characteristics		
Substantial interference with admin. of justice:	+3	[U.S.S.G. § 2J1.3(b)(2)]
Abuse of position of trust:	+2	[U.S.S.G. § 3B1.3]
Offense Level:	<u>17</u>	

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With respect to defendant's violation of 18 U.S.C.

§ 1503:

Base Offense Level: 12 [U.S.S.G. § 2J1.2]

Offense Level: 12

With respect to defendant's violation of 26 U.S.C.

§ 7206(1):

Base Offense Level:

Tax Loss more than
\$80,000 and less than
\$200,000:

16 [U.S.S.G. § 2T1.1(a)]

Specific Offense
Characteristics

Failure to report more
than \$10,000 of criminal
activity income:

+2 [U.S.S.G. § 2T1.1(b)(1)]

Offense Level: 18

Combined Offense Level: +3 [U.S.S.G. § 3D1.4]

Total Combined Offense
Level: 21

Acceptance of
responsibility: -3 [U.S.S.G. § 3E1.1]

Total Adjusted Offense
Level: 18

The USAO will agree to a downward adjustment for acceptance of responsibility only if the conditions set forth in paragraph 26(c) below are met. Subject to paragraph 26(h) below, defendant and the USAO agree not to seek, argue, or suggest in any way, either orally or in writing, that any other specific offense characteristics, adjustments or departures, from either the applicable Offense Level or Criminal History Category, be imposed. If, however, after signing this agreement but prior to sentencing, defendant were to commit an act, or the USAO were to

1 discover a previously undiscovered act committed by defendant
2 prior to signing this agreement, which act, in the judgment of
3 the USAO, constituted obstruction of justice within the meaning
4 of U.S.S.G. § 3C1.1, the USAO would be free to seek the
5 enhancement set forth in that section.

6 20. There is no agreement as to defendant's criminal
7 history or criminal history category.

8 21. The stipulations in this agreement do not bind either
9 the United States Probation Office or the Court. Both defendant
10 and the USAO are free to:

11 (a) Supplement the facts by supplying relevant
12 information to the United States Probation Office and the Court;

13 (b) Correct any and all factual misstatements relating
14 to the calculation of the sentence; and

15 (c) Argue on appeal and collateral review that the
16 Court's Sentencing Guidelines calculations are not error,
17 although each party agrees to maintain its view that the
18 calculations in paragraphs 17 - 19 and 26(h) of this agreement
19 are consistent with the facts of this case.

20 DEFENDANT'S OBLIGATIONS

21 22. Defendant agrees that he will:

22 (a) Plead guilty as set forth in this agreement.

23 (b) Not knowingly and willfully fail to abide by all
24 sentencing stipulations contained in this agreement.

25 (c) Not knowingly and willfully fail to: (i) appear as
26 ordered for all court appearances, (ii) surrender as ordered for
27 service of sentence, (iii) obey all conditions of any bond, and
28 (iv) obey any other ongoing court order in this matter.

1 (d) Not commit any crime; however, offenses which
2 would be excluded for sentencing purposes under U.S.S.G.
3 § 4A1.2(c) are not within the scope of this agreement.

4 (e) Not knowingly and willfully fail to be truthful at
5 all times with Pretrial Services, the United States Probation
6 Office, and the Court.

7 (f) Pay the applicable special assessment of \$300 at
8 or before the time of sentencing.

9 (g) Pay a fine of \$600,000 within the time period
10 ordered by the Court, after defendant's sentencing.

11 23. Defendant further agrees to:

12 (a) Produce voluntarily all documents and records in
13 his possession, custody or control that are responsive to the
14 subpoena served on defendant dated January 8, 2002.

15 (b) Authorize the disclosure and release by Milberg
16 Weiss of any and all client papers and property, documents,
17 records, or other tangible evidence relating to Milberg Weiss'
18 representation of defendant and/or any payments made by Milberg
19 Weiss' at defendant's direction or for defendant's benefit. To
20 facilitate the foregoing, defendant will sign and provide to the
21 USAO a written waiver of any attorney client confidential
22 communications privilege, work product protection, or other
23 privilege in the form of Exhibit B attached hereto.

24 (c) Authorize the disclosure and release by the law
25 firm of Best Best & Krieger ("BBK Firm") of any and all client
26 papers and property, documents, records, or other tangible
27 evidence relating to defendant's relationship with Milberg Weiss,
28 including any financial transactions involving the BBK Firm and

1 Milberg Weiss. To facilitate the foregoing, defendant will sign
2 and provide to the USAO a written waiver of any attorney client
3 confidential communications privilege, work product protection,
4 or other privilege in the form of Exhibit C attached hereto.

5 24. Defendant further agrees to pay \$1,500,000 to the
6 United States in two installments, which defendant agrees shall
7 be civilly forfeited, administratively or judicially (at the sole
8 election of the United States), pursuant to 18 U.S.C.

9 § 981(a)(1)(A) (the "Forfeitable Currency"). Defendant further
10 agrees:

11 (a) To pay the first installment of Forfeitable
12 Currency, in the sum of \$500,000, to the United States by
13 electronic funds transfer within 10 days after the date
14 defendant's plea is accepted by the court. Said transfer of the
15 funds shall be made to the Federal Reserve Bank of New York, 33
16 Liberty Street, New York, New York 10045, pursuant to
17 instructions to be provided by the USAO;

18 (b) To pay the second installment of the Forfeitable
19 Currency, in the sum of \$1,000,000, to the United States by
20 electronic funds transfer at least one business day prior to the
21 date of defendant's sentencing, pursuant to instructions to be
22 provided by the USAO;

23 (c) That the Forfeitable Currency was involved in
24 transactions or attempted transactions in violation of 18 U.S.C.
25 § 1956, or is property traceable to such property;

26 (d) Not to file a claim or statement of interest to
27 contest the forfeiture of the Forfeitable Currency in any
28 administrative or judicial proceeding;

1 (e) To waive all constitutional and statutory
2 challenges to forfeiture of the Forfeitable Currency on any
3 grounds, including that the forfeiture constitutes an excessive
4 fine or punishment;

5 (f) To deliver, within 10 business days of executing
6 this agreement, a notarized release, in the form of Exhibit D
7 hereto, executed by defendant's wife, Alyce Lazar, of all her
8 rights to contest the forfeiture of the Forfeitable Currency, and
9 to take all other steps as requested by the United States that
10 are necessary to pass to the United States clear title to the
11 Forfeitable Currency, including, without limitation, the
12 execution of a consent decree of forfeiture and the completing of
13 any other legal documents required for the transfer of title to
14 the United States;

15 (g) Not to assist any other person in any effort
16 falsely to contest the forfeiture of the Forfeitable Currency;

17 (h) The government will hold the Forfeitable Currency
18 in the Seized Asset Deposit Funds Account until the funds are
19 applied to satisfy a forfeiture order or judgment obtained
20 pursuant to this paragraph 24, which order or judgment the USAO
21 shall not caused to be entered until on or after the date of
22 defendant's sentencing; and

23 (i) That forfeiture of the Forfeitable Currency shall
24 not be counted toward satisfaction of any special assessment,
25 fine, or any other penalty the Court may impose, nor shall it be
26 counted toward satisfaction of any taxes, penalties, or interest
27 owed to the Internal Revenue Service or any other taxing
28 authority.

25. Defendant agrees to cooperate with the Internal Revenue Service ("IRS") in the determination of defendant's tax liability for his personal returns for tax years 1999, 2000, and 2001.

Defendant agrees:

(a) That defendant will file, prior to the time of sentencing, amended returns for the years 1999, 2000, and 2001 correctly reporting unreported income and correcting improper deductions and credits, and will, if requested to do so by the IRS, provide the IRS with information regarding the tax years covered by the returns, and will pay by the time of sentencing all additional taxes, and will pay promptly all penalties and interest assessed by the IRS to be owing as a result of any computational error(s);

(b) That nothing in this agreement forecloses or limits the ability of the IRS to examine and make adjustments to defendant's personal returns after they are filed;

(c) That defendant will not, after filing the returns, file any claim for refund of taxes, penalties, or interest for amounts attributable to the returns filed in connection with this agreement;

(d) That defendant is liable for the fraud penalty imposed, if any, by the Internal Revenue Code, 26 U.S.C. § 6663, as against the total amount of tax underpaid on the income underreported on his personal income tax returns for years 1999, 2000, and 2001; and

(e) To give up any and all objections that could be asserted to the Examination Division of the IRS receiving materials or information obtained during the criminal

1 investigation of this matter, including materials and information
2 obtained through grand jury subpoenas.

3 THE USAO'S OBLIGATIONS

4 26. If defendant complies fully with all defendant's
5 obligations under this agreement, the USAO agrees:

6 (a) To abide by all sentencing stipulations contained
7 in this agreement;

8 (b) At the time of sentencing to move the Court to
9 dismiss the underlying second superseding indictment, as against
10 defendant only. Defendant understands, however, that at the time
11 of sentencing the Court may consider the dismissed counts in
12 determining the applicable Sentencing Guidelines range, where the
13 sentence should fall within that range, and the determination of
14 the sentence to be imposed after consideration of the Sentencing
15 Guidelines and all other relevant facts;

16 (c) At the time of sentencing, provided that
17 defendant demonstrates an acceptance of responsibility for the
18 offenses up to and including the time of sentencing, to recommend
19 a two-level reduction in the applicable Sentencing Guideline
20 offense level, pursuant to U.S.S.G. § 3E1.1, and to recommend an
21 additional one-level reduction if available under that section;

22 (d) Not to offer as evidence in its case-in-chief in
23 the above-captioned case or in any other prosecution that may be
24 brought against defendant by the USAO, any statements made by
25 defendant or documents, records, or tangible evidence provided by
26 defendant to the USAO pursuant to the letter agreement between
27 defendant and the USAO dated February 1, 2002 (the "Letter
28 Agreement"). Defendant, however, agrees that the USAO may use

1 such statements, documents, records, and tangible evidence: (i)
2 to obtain and pursue leads to other evidence, which evidence may
3 be used for any purpose, including any prosecution of defendant;
4 (ii) to cross-examine defendant should defendant testify, or to
5 rebut any evidence, argument or representations made by defendant
6 or a witness called by defendant in any trial, sentencing
7 hearing, or other court proceeding; (iii) in any prosecution of
8 defendant for false statement, obstruction of justice, or

9 perjury; and (iv) at defendant's sentencing. Defendant
10 understands that information provided by defendant pursuant to
11 this agreement will be disclosed to the Probation Office and the
12 Court;

13 (e) Not to further prosecute defendant for violations
14 of federal law arising out of defendant's conduct alleged in the
15 second superseding indictment or described in the stipulated
16 facts set forth in Exhibit A hereto;

17 (f) Defendant understands and agrees that the USAO is
18 free to prosecute defendant for any other unlawful past conduct
19 not specifically exempted by this agreement or any illegal
20 conduct that occurs after the date of this agreement;

21 (g) If requested by the defendant or his counsel, to
22 bring to the Court's attention the nature and extent of
23 defendant's cooperation, in connection with his sentencing; and

24 (h) To recommend that: (i) the Court make a 8-level
25 variance from defendant's adjusted offense level of 18, thereby
26 resulting in an offense level 10, in view of defendant's poor
27 health condition and advanced age; (ii) defendant be sentenced at
28 the low-end of his Sentencing Guideline range; and (iii) that

1 Court impose a sentence of probation that defendant may serve in
2 home detention.

3 BREACH OF AGREEMENT

4 27. If defendant, at any time after the execution of this
5 agreement knowingly and willfully violates or fails to perform
6 any of defendant's obligations under this agreement ("a breach"),
7 the USAO may declare this agreement breached. For example,
8 defendant will have breached this agreement if defendant: fails

9 to enter his guilty pleas pursuant to paragraph 22(a) of this
10 agreement; fails to produce documents and records pursuant to
11 paragraph 23(a) of this agreement; fails to authorize the
12 disclosures and releases by Milberg Weiss and BBK of items
13 pursuant to paragraphs 23(b) and 23(c) of this agreement; fails
14 to pay the Forfeitable Currency pursuant to paragraph 24 of this
15 agreement; or fails to cooperate with the IRS, including filing
16 amended returns, pursuant to paragraph 25 of this agreement. If
17 the USAO declares the agreement breached and the Court finds such
18 a breach to have occurred, defendant will not be able to withdraw
19 defendant's guilty pleas (if, at the time of the breach, he had
20 previously entered his guilty pleas), the USAO will be relieved
21 of all its obligations under this agreement.

22 28. Following a knowing and willful breach of this
23 agreement by defendant, should the USAO elect to pursue any
24 charge that was dismissed or that it would have been obligated to
25 dismiss or that was not filed as a result of this agreement,
26 then:

27 (a) Defendant agrees that any applicable statute of
28 limitations is tolled between the date of defendant's signing of

1 this agreement and the commencement of any such prosecution or
2 action.

3 (b) Defendant gives up all defenses based on the
4 statute of limitations, any claim of pre-indictment delay, or any
5 speedy trial claim with respect to any such prosecution, except
6 to the extent that such defenses existed as of the date of
7 defendant's signing this agreement.

8 (c) Defendant agrees that: (i) any statements made by
9 defendant, under oath, at the guilty plea hearing (if there was
10 such a hearing); (ii) the stipulated factual basis statement in
11 this agreement; and (iii) any evidence derived from such
12 statements, are admissible against defendant in any prosecution
13 of defendant by the USAO and defendant shall assert no claim
14 under the United States Constitution, any statute, Rule 410 of
15 the Federal Rules of Evidence, Rule 11(f) of the Federal Rules of
16 Criminal Procedure, or any other federal rule, that the
17 statements or evidence derived from any statements should be
18 suppressed or are inadmissible.

19 LIMITED MUTUAL WAIVER OF APPEAL AND COLLATERAL ATTACK

20 29. Defendant gives up the right to appeal any sentence
21 imposed by the Court and the manner in which the sentence is
22 determined, provided that (a) the sentence is within the
23 statutory maximum specified above and is constitutional, (b) the
24 Court in determining the applicable guideline range does not
25 depart upward in offense level or criminal history category,
26 determines that the total offense level is 10 or below, and (c)
27 the Court imposes a sentence within or below the range
28 corresponding to the determined total offense level and criminal

1 history category. Defendant also gives up any right to bring a
2 post-conviction collateral attack on the conviction or sentence,
3 except a post-conviction collateral attack based on a claim of
4 ineffective assistance of counsel, a claim of newly discovered
5 evidence, or an explicitly retroactive change in the applicable
6 Sentencing Guidelines, sentencing statutes, or statutes of
7 conviction. Notwithstanding the foregoing, defendant retains the
8 ability to appeal the conditions of supervised release imposed by
9 the Court, with the exception of the following: standard
10 conditions set forth in district court General Orders 318 and 01-
11 05; and the drug testing conditions mandated by 18 U.S.C.
12 §§ 3563(a)(5) and 3583(b)(7).

13 30. The USAO gives up its right to appeal the Court's
14 Sentencing Guidelines calculations, provided that (a) the Court
15 in determining the applicable guideline range does not depart
16 downward in offense level or criminal history category, (b) the
17 Court determines that the total offense level is 10 or above, and
18 (c) the Court imposes a sentence within or above the range
19 corresponding to the determined offense level and criminal
20 history category.

21 COURT NOT A PARTY

22 31. The Court is not a party to this agreement and need not
23 accept any of the USAO's sentencing recommendations or the
24 parties' stipulations. Even if the Court ignores any sentencing
25 recommendation, finds facts or reaches conclusions different from
26 any stipulation, and/or imposes any sentence up to the maximum
27 established by statute, defendant cannot, for that reason,
28 withdraw defendant's guilty plea, and defendant will remain bound

1 to fulfill all defendant's obligations under this agreement. No
2 one -- not the prosecutor, defendant's attorney, or the Court --
3 can make a binding prediction or promise regarding the sentence
4 defendant will receive, except that it will be within the
5 statutory maximum.

6 32. This agreement applies only to crimes committed by
7 defendant, has no effect on any proceedings against defendant not
8 expressly mentioned herein, and shall not preclude any past,
9 present, or future forfeiture actions.

10 NO ADDITIONAL AGREEMENTS

11 33. Except as set forth herein, there are no promises,
12 understandings or agreements between the USAO and defendant or
13 defendant's counsel. This agreement supersedes and replaces the
14 Letter Agreement. Nor may any additional agreement,
15 understanding or condition be entered into unless in a writing
16 signed by all parties or on the record in court.

17 PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

18 34. The parties agree and stipulate that this agreement
19 will be considered part of the record of defendant's guilty plea
20 hearing as if this entire agreement had been read into the record
21 of such proceedings.

22 This agreement is effective upon signature by defendant and

23 //

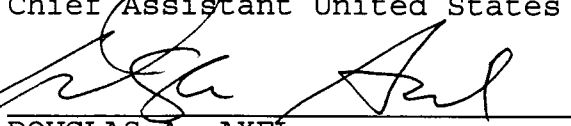
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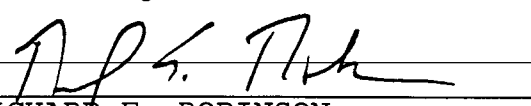
1 an Assistant United States Attorney.

2 AGREED AND ACCEPTED

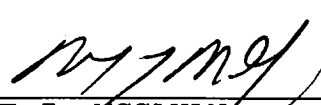
3 THOMAS P. O'BRIEN
United States Attorney
4 GEORGE S. CARDONA
Chief Assistant United States Attorney

5 
6 DOUGLAS A. AXEL
7 Assistant United States Attorney
Chief, Major Frauds Section

10/16/07
Date

8 
9 RICHARD E. ROBINSON
10 Assistant United States Attorney
Major Frauds Section

10/16/07
Date

11 
12 ROBERT J. MCGAHAN
13 Assistant United States Attorney
Major Frauds Section

10-17-07
Date

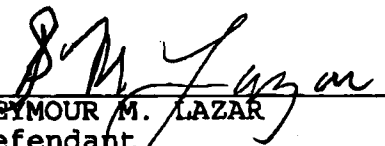
14
15 I have read this agreement and carefully discussed every
16 part of it with my attorney. I understand the terms of this
17 agreement, and I voluntarily agree to those terms. My attorney
18 has advised me of my rights, of possible defenses, of the
19 Sentencing Guideline provisions, and of the consequences of
20 entering into this agreement. No promises or inducements have
21 been made to me other than those contained in this agreement. No
22 one has threatened or forced me in any way to enter into this
23 agreement. Finally, I am satisfied with the representation of my

24 //

25 //

26 //

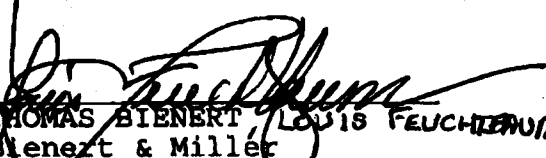
1 attorney in this matter.

2
3 
4 SEYMOUR M. LAZAR
Defendant

10/12/07
Date

5 I am SEYMOUR M. LAZAR's attorney. I have carefully
6 discussed every part of this agreement with our client. Further,
7 I have fully advised our client of his rights, of possible
8 defenses, of the sentencing factors set forth in 18 U.S.C.

9 § 3553(c), including the relevant Sentencing Guidelines
10 provisions, and of the consequences of entering into this
11 agreement. To my knowledge, my client's decision to enter into
12 this agreement is an informed and voluntary one.

13
14 
15 THOMAS BIENERT, LOUIS FEUCHTERUM
16 Bienert & Miller
Counsel for Defendant
SEYMOUR M. LAZAR

10/12/2007
Date

EXHIBIT A

STATEMENT OF FACTS IN SUPPORT OF PLEA AGREEMENT

Background

Defendant SEYMOUR M. LAZAR ("LAZAR") represents and admits that the following facts are true:

1. During the relevant times, LAZAR resided in Palm Springs, California. LAZAR owned and controlled substantial real property throughout Riverside County, California, and elsewhere, and was an active purchaser and seller of publicly traded stocks.

2. During the relevant times, Milberg Weiss Bershad Hynes & Lerach LLP, formerly known as "Milberg Weiss Bershad Specthrie & Lerach," and "Milberg Weiss Bershad & Specthrie" ("Milberg Weiss"), was headquartered in New York, New York, and specialized in representing plaintiffs in securities class action and shareholder derivative lawsuits.

3. Between in or about 1976 and 2004, LAZAR and certain of his family members served as plaintiffs in numerous class actions and shareholder derivative actions brought and caused to be brought by Milberg Weiss (the "Lazar Lawsuits"). Milberg Weiss represented LAZAR and his family members in the Lazar Lawsuits.

Secret Payment Arrangement

4. Beginning in 1979 and continuing to at least 2002, LAZAR and Milberg Weiss had an established arrangement and practice that Milberg Weiss would pay defendant LAZAR a portion of the attorneys' fees that Milberg Weiss obtained in the Lazar

Lawsuits. The payment arrangement was initially discussed and agreed to between LAZAR and Milberg Weiss senior partner Melvyn I. Weiss ("Weiss") or senior partner David J. Bershad ("Bershad"). The amounts of Milberg Weiss's payments for Lazar Lawsuits were discussed by LAZAR and Bershad and generally constituted 10% of Milberg Weiss's attorneys' fees obtained in those cases. It was further agreed that instead of Milberg Weiss paying LAZAR directly, LAZAR would select intermediary lawyers and law firms through whom Milberg Weiss would pay LAZAR his share of Milberg Weiss's attorneys' fees in the Lazar Lawsuits (the "Intermediary Lawyers").

5. The Intermediary Lawyers selected by LAZAR included the "Palm Springs Law Firm" (as defined in the second superseding indictment), and various other attorneys and law firms located in Santa Ana and Los Angeles, California, and elsewhere.

6. After an Intermediary Lawyer received a payment from Milberg Weiss, LAZAR would direct the Lazar Intermediary Lawyer to use or apply the payment for the benefit of LAZAR including, among other things, (a) to satisfy legal fees or expenses that LAZAR owed or would owe the Lazar Intermediary Lawyer; and (b) to pay third parties to whom LAZAR owed money.

7. The payments of LAZAR'S fee share by Milberg Weiss to the Palm Springs Law Firm and other Intermediary Lawyers were falsely characterized in accompanying Milberg Weiss cover letters

as, among other things, for their "referral" of LAZAR or for their "work and responsibility assumed as counsel" in the Lazar Lawsuits. Nonetheless, LAZAR understood that such payments represented monies that Milberg Weiss owed to LAZAR and were made to satisfy Milberg Weiss's payment obligation to LAZAR.

8. Milberg Weiss's payments pursuant to the arrangement with LAZAR included the following checks issued by Milberg Weiss to the Palm Springs Law Firm on or about the following date:

- a. June 25, 1999: \$50,000
- b. December 7, 1999: \$75,000
- c. May 26, 2000: \$125,000
- d. December 28, 2000: \$50,000
- e. July 9, 2001: \$133,000

LAZAR understood that all of the Milberg Weiss payments identified above were in fact payments from Milberg Weiss to LAZAR, pursuant to Milberg Weiss's agreement with LAZAR to pay LAZAR a portion of the attorneys' fees that Milberg Weiss obtained in the Lazar Lawsuits, and therefore constituted income of LAZAR.

False Tax Returns

9. On or about the following dates, in Riverside County, within the Central District of California, LAZAR willfully made and subscribed to a Personal Income Tax Return Form 1040 for the tax years identified below, which contained and was verified by a

written declaration that it was made under the penalties of perjury, and which LAZAR knew and believed was not true and correct as to a material matter, in that it failed to report as income the payments during the year by Milberg Weiss for LAZAR's benefit, as described in paragraph 8 above, in the following amounts:

DATE	TAX YEAR	AMOUNT OF PAYMENTS FROM MILBERG WEISS
10/17/00	1999	\$ 125,000
10/12/01	2000	\$ 175,000
05/21/03	2001	\$ 133,000

False Declaration to Courts

10. Pursuant to the Private Securities Litigation Reform Act of 1995 ("PSLRA"), all securities fraud class action complaints filed in federal court after December 22, 1995 must be accompanied by a certification, signed under penalty of perjury by "[e]ach plaintiff seeking to serve as a representative party on behalf of a class," stating, among other things, that:

(a) "the plaintiff did not purchase the security that is the subject of the complaint at the direction of plaintiff's counsel or in order to participate in any private action arising under [the federal laws prohibiting securities fraud]" and (b) "the plaintiff will not accept any payment for serving as a representative party on behalf of a class beyond the plaintiff's pro rata share of any recovery, except as approved by the court

in accordance with [the PSLRA]."

11. LAZAR understood that he could not disclose his payment arrangement with the Milberg Weiss to the courts presiding over, or the other parties to, the Lazar Lawsuits. As a result, in response to questions in his depositions and other discovery in the Lazar Lawsuits, LAZAR consistently avoided disclosing the existence of his secret payment arrangement with Milberg Weiss.

12. On or about December 13, 1999, Milberg Weiss and LAZAR caused to be filed in the United States District Court for the District of Connecticut a class action complaint against Xerox Corporation and others for violation of federal securities laws, naming LAZAR as a plaintiff, captioned Helene Giarputo and Seymour Lazar v. Xerox Corp. et al., 99 CV 2374 ("Xerox").

13. Along with the Xerox class action complaint, Milberg Weiss and LAZAR caused to be filed a document entitled "Certification of Seymour Lazar In Support of Class Action Complaint" (the "Certification"), which was prepared by Milberg Weiss and signed by LAZAR on or about December 13, 1999, under penalty of perjury.

14. At the time LAZAR signed the Certification, he knew that Milberg Weiss would submit the Certification to the federal court presiding over the Xerox class action, and that the Certification was required under federal law to be filed with the court to assist the court in determining whether LAZAR would

fairly and adequately represent the interests of the members of the proposed class.

15. At the time he executed the Certification, LAZAR knew it to be false because in it he declared, with respect to the Xerox class action, that he would "not accept any payment for serving as a representative party on behalf of a class beyond plaintiff's pro rata share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the Class as ordered or approved by the Court." Pursuant to his long standing secret payment arrangement with Milberg Weiss, LAZAR intended to receive and accept the benefit of some portion of the attorneys' fees, if any, that Milberg Weiss obtained in the Xerox case, for his serving as a representative plaintiff.

16. LAZAR knew, at the time he signed the Certification, that it would be material to the court to learn that LAZAR had secretly arranged with Milberg Weiss to obtain a share of the firm's attorneys' fees received in the Xerox class action. LAZAR knew that disclosure of these facts to the court could potentially cause the court to exclude him, as well as Milberg Weiss, from participation in the Xerox class action and eliminate their prospect of sharing in any attorneys' fees award in that case. During the course of the Xerox class action, LAZAR concealed these facts and the falsity of the Certification from

the court.

Obstruction of Justice

17. During the relevant times there was pending in the Central District of California a federal grand jury proceeding involving allegations that Milberg Weiss had paid secret and illegal kickbacks to named plaintiffs in class actions and shareholder derivative actions, including LAZAR (the "Grand Jury Proceeding").

18. On or about January 9, 2002, LAZAR was personally served at his residence in Palm Springs, California, with a grand jury subpoena (the "Subpoena"). The Subpoena required LAZAR to produce to the Grand Jury certain specified documents relating to the Grand Jury Proceeding that were in his possession, custody, or control, which, as defined and instructed by the Subpoena, included documents that were in the possession of LAZAR's accountant and tax return preparer.

19. At the time of the service of the Subpoena on LAZAR, LAZAR's accountant and tax return preparer ("his Accountant") had for many years retained at his office in Woodland Hills, California and in storage various financial records and other documents used for the preparation and filing of LAZAR'S tax returns, including documents reflecting LAZAR's stock trading activity, LAZAR's legal fees and expenses incurred for services rendered by the Palm Springs Law Firm and other Intermediary

Lawyers on LAZAR's various real estate and business ventures, and other business matters of LAZAR.

20. The documents required to be produced by the Subpoena included, among other things, those relating to (a) any payments that Milberg Weiss caused to be paid directly or indirectly to LAZAR and/or to any attorney who received any referral fee for securing the employment of Milberg Weiss; (b) any reporting or non-reporting of such payments on any federal or state tax return filed by LAZAR; and (c) any securities purchased by LAZAR in any business entity that was the subject of a class action in which LAZAR served, or sought to serve, as a representative plaintiff.

21. In or about early February 2002, after he was served with the Subpoena, LAZAR instructed his Accountant to destroy any records in his Accountant's possession concerning LAZAR that were older than the record retention requirements of the Internal Revenue Service and the California Franchise Tax Board. In doing so, LAZAR failed to disclose to his Accountant that LAZAR had been served with the Subpoena that required LAZAR's production of responsive documents in the possession of his Accountant.

22. Pursuant to LAZAR's instructions, his Accountant then caused LAZAR records in the possession of his Accountant that were from approximately the year 1994 and earlier to be destroyed.

23. LAZAR corruptly influenced, obstructed, and impeded,

and endeavored to influence, obstruct, and impede, the due administration of justice in the Grand Jury Proceeding by directing his Accountant to destroy these documents relating to LAZAR, including documents that LAZAR knew: (a) were responsive to the Subpoena; and (b) were and would become relevant to the Grand Jury Proceeding.

EXHIBIT B TO PLEA AGREEMENT OF SEYMOUR M. LAZAR

October __, 2007

Milberg Weiss LLP
c/o Bryan Daly, Esq.
Marc Harris, Esq.
Beck, De Corso, Daly, Kreindler & Harris

William W. Taylor, Esq.
Zuckerman Spaeder LLP

Dear Counsel:

This will confirm that I, Seymour M. Lazar, hereby authorize Milberg Weiss LLP to disclose and release to the United States Attorney's Office for the Central District of California (the "USAO") any and all client papers and property, documents, records, or other tangible evidence relating to Milberg Weiss's representation of me and/or any payments made by Milberg Weiss at my direction or for my benefit.

This will further confirm that I hereby waive the attorney-client confidential communications privilege and any other associated privilege, including, but not limited to, any protection afforded by the attorney work-product doctrine, with respect to Milberg Weiss's disclosure and release of the above-described items to the USAO. Accordingly, I do not want Milberg Weiss to assert the attorney-client confidential communications privilege and any other associated privilege, including, but not limited to, any protection afforded by the attorney work-product doctrine, on behalf of me in connection with Milberg Weiss's disclosure and release of these items to the USAO.

I further request that any such items that Milberg Weiss has previously withheld from disclosure and release to the USAO based on the assertion of any such privilege or protection on my behalf now be disclosed and released by Milberg Weiss to the USAO immediately.

Sincerely,

Seymour M. Lazar

cc: Thomas Bienert, Esq.

EXHIBIT C TO PLEA AGREEMENT OF SEYMOUR M. LAZAR

October __, 2007

Best Best & Krieger LLP
c/o Thomas E. Holliday, Esq.
Gibson, Dunn & Crutcher LLP

Dear Counsel:

This will confirm that I, Seymour M. Lazar, hereby authorize Best Best & Krieger LLP ("BBK") to disclose and release to the United States Attorney's Office for the Central District of California (the "USAO") any and all client papers and property, documents, records, or other tangible evidence relating to my relationship with the Milberg Weiss law firm, including any financial transactions involving BBK and Milberg Weiss.

This will further confirm that I hereby waive the attorney-client confidential communications privilege and any other associated privilege, including, but not limited to, any protection afforded by the attorney work-product doctrine, with respect to BBK's disclosure and release of the above-described items to the USAO. Accordingly, I do not want BBK to assert the attorney-client confidential communications privilege and any other associated privilege, including, but not limited to, any protection afforded by the attorney work-product doctrine, on behalf of me in connection with BBK's disclosure and release of these items to the USAO.

I further request that any such items that BBK has previously withheld from disclosure and release to the USAO based on the assertion of any such privilege or protection on my behalf now be disclosed and released by BBK to the USAO immediately.

Sincerely,

Seymour M. Lazar

cc: Thomas Bienert, Esq.

EXHIBIT D TO PLEA AGREEMENT OF SEYMOUR M. LAZAR

**WAIVER AND RELEASE
OF CLAIMS TO CONTEST FORFEITURE**

I. INTRODUCTION.

A. Seymour M. Lazar ("defendant") has entered into a plea agreement with the United States Attorneys Office for the Central District of California.

B. Defendant has agreed to forfeit \$_____ to the United pursuant to 18 U.S.C. § 981(a)(1)(A) ("the Forfeitable Currency")

C. Alyce Lazar is the defendant's wife.

II. WAIVER AND RELEASE BY ALYCE LAZAR

Alyce Lazar hereby knowingly, voluntarily, and intelligently waives, relinquishes, and surrenders all rights to contest the forfeiture of the Forfeitable Currency, and all rights to judicial review of the forfeiture of the Forfeitable Currency. To the extent that Alyce Lazar has already filed one or more claims to contest administrative or judicial forfeiture of the Forfeitable Currency, this Waiver and Release constitutes a complete withdrawal of such claims.

Alyce Lazar

Subscribed and sworn before me this __ day of _____, 2007.

Notary Public

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	) No. CR 05-587(E) -JFW
)
Plaintiff,	) <u>T H I R D</u>
	) <u>S U P E R S E D I N G</u>
v.	) <u>I N F O R M A T I O N</u>
)
SEYMOUR M. LAZAR,	) [18 U.S.C. § 1623(a): False
	) Declaration Before Federal
Defendant.	) Court]

The United States Attorney charges:

COUNT ONE

[18 U.S.C. § 1623(a)]

I.

BACKGROUND

1. At all time relevant to this Information, defendant SEYMOUR M. LAZAR ("LAZAR") was a resident of Palm Springs, California.

2. At all times relevant to this Information, Milberg Weiss Bershad Hynes & Lerach LLP, formerly known as "Milberg Weiss Bershad Specthrie & Lerach," was a law firm headquartered in New York, New York ("Milberg Weiss"). Milberg Weiss

1 specialized in representing plaintiffs in securities fraud class
2 actions and shareholder derivative actions in federal and state
3 courts throughout the United States. Among the plaintiffs
4 represented by Milberg Weiss in such actions were defendant LAZAR
5 and his spouse.

6 3. From in or about 1976 through at least in or about
7 2004, defendant LAZAR and his spouse served as named plaintiffs
8 in class actions and shareholder derivative actions brought and
9 caused to be brought by Milberg Weiss (hereinafter the "Lazar
10 Lawsuits").

11 4. Beginning in 1979 and continuing to at least 2002,
12 defendant LAZAR and Milberg Weiss had an established arrangement
13 and practice that Milberg Weiss would secretly pay defendant
14 LAZAR a portion of the attorneys' fees that Milberg Weiss
15 obtained in the Lazar Lawsuits.

16 5. Pursuant to the Private Securities Litigation Reform
17 Act of 1995 ("PSLRA"), all securities fraud class action
18 complaints filed in federal court after December 22, 1995 must be
19 accompanied by a certification, signed under penalty of perjury
20 by "[e]ach plaintiff seeking to serve as a representative party
21 on behalf of a class," stating, among other things, that:

22 (a) "the plaintiff did not purchase the security that is the
23 subject of the complaint at the direction of plaintiff's counsel
24 or in order to participate in any private action arising under
25 [the federal laws prohibiting securities fraud]" and (b) "the
26 plaintiff will not accept any payment for serving as a
27 representative party on behalf of a class beyond the plaintiff's
28 pro rata share of any recovery, except as approved by the court

1 in accordance with [the PSLRA]."

2 II.

3 FALSE CERTIFICATION IN XEROX SECURITIES LITIGATION

4 6. On or about December 13, 1999, Milberg Weiss and LAZAR
5 caused to be filed in the United States District Court for the
6 District of Connecticut a class action complaint against Xerox
7 Corporation and others for violation of federal securities laws,
8 naming LAZAR as a plaintiff, captioned Helene Giarputo and
9 Seymour Lazar v. Xerox Corp. et al., 99 CV 2374 ("Xerox").

10 7. Along with the Xerox class action complaint, Milberg
11 Weiss and LAZAR caused to be filed a document entitled
12 "Certification of Seymour Lazar In Support of Class Action
13 Complaint" (the "Certification"), which was prepared by Milberg
14 Weiss and signed by LAZAR on or about December 13, 1999, under
15 penalty of perjury.

16 8. At the time defendant LAZAR signed the Certification,
17 he knew that Milberg Weiss would submit the Certification to the
18 federal court presiding over the Xerox class action, and that the
19 Certification was required under federal law to be filed with the
20 court to assist the court in determining whether LAZAR would
21 fairly and adequately represent the interests of the members of
22 the proposed class.

23 9. At the time he executed the Certification, defendant
24 LAZAR knew it to be false because in it he declared, with respect
25 to the Xerox class action, that he would "not accept any payment
26 for serving as a representative party on behalf of a class beyond
27 plaintiff's pro rata share of any recovery, except such
28 reasonable costs and expenses (including lost wages) directly

1 relating to the representation of the Class as ordered or
2 approved by the Court." In truth and fact, as LAZAR then well
3 knew, LAZAR intended to receive and accept the benefit of some
4 portion of the attorneys' fees, if any, that Milberg Weiss
5 obtained in the Xerox case, for his serving as a representative
6 plaintiff.

7 10. Defendant LAZAR knew, at the time he signed the
8 Certification, that it would be material to the court to learn
9 that defendant LAZAR had secretly arranged with Milberg Weiss to
10 obtain a share of the firm's attorneys' fees received in the
11 Xerox class action. Defendant LAZAR knew that disclosure of
12 these facts to the court could potentially cause the court to
13 exclude him, as well as Milberg Weiss, from participation in the
14 Xerox class action and eliminate their prospect of sharing in any
15 attorneys' fees award in that case. During the course of the
16 Xerox class action, LAZAR concealed these facts and the falsity
17 of the Certification from the court.

18 THOMAS P. O'BRIEN
19 United States Attorney

20 GEORGE S. CARDONA
21 Chief Assistant U.S. Attorney

22 DOUGLAS A. AXEL
23 Assistant United States Attorney
24 Chief, Major Frauds Section

25 RICHARD E. ROBINSON
26 ROBERT J. MCGAHAN
27 Assistant United States Attorneys
28 Major Frauds Section

CERTIFICATE OF SERVICE

1 I, **Shaton L. McDaniel**, declare:

2 That I am a citizen of the United States and resident or employed in Los Angeles
3 County, California; that my business address is the Office of United States Attorney,
4 United States Courthouse, 312 North Spring Street, Los Angeles, California 90012; that I
5 am over the age of eighteen years, and am not a party to the above-entitled action;

6 That I am employed by the United States Attorney for the Central District of
7 California who is a member of the Bar of the United States District Court for the Central
8 District of California, at whose direction I served a copy of:

PLEA AGREEMENT FOR DEFENDANT SEYMOUR M. LAZAR

9 service was:

10
11
12 ☐ Placed in a closed
13 envelope, for collection
14 and interoffice delivery
addressed as follows:

☒ Placed in a sealed
envelope for collection and mailing
via United States Mail,
addressed as follows:

15 ☐ By hand delivery
addressed as follows:

☐ By facsimile as follows:

16 ☐ By messenger as follows:

☐ By federal express as follows:

17
18 **THOMAS H. BIENERT, ESQ.**

19 Bienert & Miller
107 Avenida Miramar, Suite B
San Clemente, California 92672-6713

20
21 This Certificate is executed on **October 17, 2007** at Los Angeles, California.
22 I certify under penalty of perjury that the foregoing is true and correct.

23
24
25
26
27
28

Shaton L. McDaniel